

AMENDED IN ASSEMBLY APRIL 20, 2009

AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## Assembly Joint Resolution

No. 8

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### Introduced by Assembly Member Monning

(Coauthors: Assembly Members Bill Berryhill, Blumenfield, Lieu, Nava, ~~and John A. Perez~~ *John A. Perez, Ammiano, Arambula, Bass, Beall, Blakeslee, Block, Brownley, Caballero, Coto, Davis, De La Torre, De Leon, Emmerson, Eng, Evans, Feuer, Fletcher, Fong, Fuentes, Hayashi, Hill, Huffman, Jones, Krekorian, Bonnie Lowenthal, Ma, Mendoza, Nestande, V. Manuel Perez, Portantino, Price, Ruskin, Salas, Saldana, Skinner, Audra Strickland, Swanson, Torlakson, Torrico, and Yamada*)

(Coauthor: Senator DeSaulnier)

February 25, 2009

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Assembly Joint Resolution No. 8—Relative to marine mammal protection.

#### LEGISLATIVE COUNSEL’S DIGEST

AJR 8, as amended, Monning. Marine mammal protection: swordfish importation.

This measure requests the United States government to restrict swordfish imports unless and until there is a process by which a nation seeking to export swordfish or swordfish products to the United States provides reasonable proof of the effects on marine mammals of the commercial fishing technology used to obtain the swordfish or swordfish products, and the National Marine Fisheries Service receives that proof and determines that the proof demonstrates that the swordfish or

swordfish products to be imported were not caught with commercial fishing technology that results in the incidental kill or incidental serious injury of marine mammals in excess of United States standards.

Fiscal committee: no.

1 WHEREAS, California is a coastal state that is dedicated to the  
2 protection of our marine mammal populations, fisheries, and ocean  
3 resources; and

4 WHEREAS, California and the United States public have a  
5 strong interest in healthy global marine mammal populations; and

6 WHEREAS, Bycatch in some fisheries poses a significant threat  
7 to many populations of marine mammals around the world and  
8 scientists estimate that the global bycatch of marine mammals is  
9 likely to number in the hundreds of thousands each year; and

10 WHEREAS, Scientific experts from Duke University and the  
11 University of New Hampshire concluded in 2002 that, “incidental  
12 capture in fishing operations is the major threat to whales, dolphins  
13 and porpoises worldwide. Several species and many populations  
14 will be lost in the next few decades if nothing is done”; and

15 WHEREAS, Congress recognized that some types of fishing  
16 pose a grave threat to marine mammal species when it passed the  
17 Marine Mammal Protection Act (16 U.S.C. Secs. 1361 et seq.)  
18 (MMPA), a law that imposes restrictions on fishery-related  
19 mortalities and injuries of marine mammals and has led to the  
20 establishment of significant regulatory protections designed to  
21 reduce their bycatch in United States domestic fisheries; and

22 WHEREAS, Conservation measures have been effective in  
23 reducing marine mammal bycatch in United States fisheries,  
24 resulting in a 40 percent decrease between 1990 and 1999; and

25 WHEREAS, Despite recognition of the importance of reducing  
26 bycatch of marine mammals in fisheries, our knowledge of the  
27 global extent, nature, and impacts of direct interactions between  
28 marine mammals and foreign fisheries is limited; and

29 WHEREAS, Congress also realized that marine mammal  
30 conservation could not be accomplished through regulation of  
31 United States fishermen alone, thereby mandating in Section  
32 101(a)(2) of the MMPA that United States economic power be  
33 utilized to achieve conservation of marine mammals outside United  
34 States waters; and

1 WHEREAS, Section 101(a)(2) of the MMPA states that the  
2 United States government, “shall ban the importation of  
3 commercial fish or fish products that have been caught with  
4 commercial fishing technology that results in the incidental kill or  
5 incidental serious injury of marine mammals in excess of United  
6 States standards”; and

7 WHEREAS, The MMPA directs that the Secretary of Commerce  
8 “shall insist on reasonable proof from the government of any nation  
9 from which fish or fish products will be exported to the United  
10 States of the effects on ocean mammals of the commercial fishing  
11 technology in use for such fish or fish products exported from such  
12 nation to the United States”; and

13 WHEREAS, The United States imports over 10,000 metric tons  
14 of swordfish and swordfish products each year, making it one of  
15 the top swordfish consumers in the world; and

16 WHEREAS, The United States received swordfish imports from  
17 approximately 43 countries between 2005 and 2007, inclusive, yet  
18 the United States government reports that it has no information  
19 from any of these countries regarding their fishing practices, take  
20 of marine mammals, or any other information to satisfy the  
21 requirements of Section 101 of the MMPA as of December 2007;  
22 and

23 WHEREAS, The responsible United States agencies cannot  
24 confirm whether countries importing swordfish into the United  
25 States operate under a regulatory scheme that is comparable to  
26 United States standards without demanding, receiving, and  
27 assessing the proof required under Section 101(a)(2) of the MMPA;  
28 and

29 WHEREAS, It therefore seems that the United States has  
30 imported swordfish without obtaining the MMPA-mandated proof  
31 that the swordfish was caught in compliance with United States  
32 standards for the last 35 years; and

33 WHEREAS, Available information indicates that many of the  
34 countries exporting swordfish to the United States fail to regulate  
35 their fisheries in a manner that protects marine mammals, transship  
36 fish from other poorly regulated and destructive fisheries, or may  
37 not track bycatch data at all; and

38 WHEREAS, Collection and reporting of marine mammal  
39 bycatch in foreign fisheries under Section 101(a)(2) of the MMPA  
40 could help assist management organizations, such as regional

1 fisheries organizations, in assessing fishery interaction mitigation  
2 strategies and directing conservation efforts; and

3 WHEREAS, United States swordfish fishermen compete with  
4 swordfish imports from many poorly regulated foreign fishermen  
5 operating without comparable and appropriate restraints on marine  
6 mammal bycatch; and

7 WHEREAS, Enforcement of Section 101 of the MMPA would  
8 provide an incentive for foreign fishing fleets to implement similar  
9 protective measures and gear requirements as United States  
10 fisheries, reducing foreign fleets' competitive advantage over  
11 United States fishermen; now, therefore, be it

12 *Resolved by the Assembly and the Senate of the State of*  
13 *California, jointly*, That the Legislature of the State of California  
14 requests the National Marine Fisheries Service and Department  
15 of the Treasury, as appropriate, to carry out the nondiscretionary  
16 duties imposed by Section 101(a)(2) of the Marine Mammal  
17 Protection Act and immediately ban the importation of swordfish  
18 or swordfish products from any and all countries that have not  
19 satisfied the MMPA Section 101(a)(2) requirement; and be it  
20 further

21 *Resolved*, That the Legislature of the State of California requests  
22 the National Marine Fisheries Service to require nations wishing  
23 to export swordfish or swordfish products to the United States to  
24 provide information on the fishing methods used to catch the  
25 swordfish or swordfish products, programs in place to protect  
26 marine mammals from incidental harm by the fishery, and  
27 effectiveness of fishery monitoring and enforcement activities,  
28 and consider that information in making determinations under  
29 Section 101(a)(2) of the MMPA; and be it further

30 *Resolved*, That the Legislature of the State of California requests  
31 the United States government to restrict swordfish imports unless  
32 and until there is a process by which any nation seeking to export  
33 swordfish or swordfish products to the United States provides  
34 reasonable proof of the effects on marine mammals of the  
35 commercial fishing technology used to obtain the swordfish or  
36 swordfish products, and the National Marine Fisheries Service  
37 receives that proof and determines that it demonstrates that the  
38 swordfish or swordfish products to be imported were not caught  
39 with commercial fishing technology that results in the incidental

1 kill or incidental serious injury of marine mammals in excess of  
2 United States standards; and be it further  
3 *Resolved*, That the Chief Clerk of the Assembly transmit copies  
4 of this resolution to the President of the United States, to the  
5 Secretary of Commerce, to the Secretary of the Treasury, to the  
6 National Marine Fisheries Service, to the Speaker of the House of  
7 Representatives, and to each Senator and Representative from  
8 California in the Congress of the United States.

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